

**Before the  
Federal Communications Commission  
Washington, DC 20554**

**In the Matter of** )  
 )  
CLOSED CAPTIONING et al. )  
 )  
SUNDAY MASS )  
of the ADM Ministry of Communications )

FILED/ACCEPTED

JAN 18 2012

Federal Communications Commission  
Office of the Secretary

To: Secretary

Attn: Joel Gurin  
Chief, Consumer & Governmental Affairs Bureau

**PETITION OF THE "SUNDAY MASS"  
FOR EXEMPTION AND/OR WAIVER**

The ADM Ministry of Communications<sup>1</sup> ("Ministry") respectfully submits this Petition for Exemption and/or Waiver from the closed captioning rules of the Federal Communications Commission ("FCC"), 47 CFR 79.1 et seq., for its half-hour **Sunday Mass**, broadcast weekly on Miami television station WLTW-TV ("Sunday Mass"). The Petition seeks (i) confirmation of a categorical exemption, pursuant to Section 79.1(d)(8), or (ii) grant of an individual exemption, pursuant to Section 79.1(f)(1), **or** (iii) the grant of a waiver,<sup>2</sup> from the FCC's closed-captioning rules. Moreover, Petitioner also submits that, pursuant to any regulatory rationale, (iv) the FCC's imposition of a closed-captioning requirement on the Sunday Mass would constitute a constitutionally impermissible restriction on, inter alia, the religious rights and freedoms of both

<sup>1</sup> The Ministry of Communications is an independently operated and separately budgeted outreach organization within the general jurisdiction of the Archdiocese of Miami ("ADM").

<sup>2</sup> A Petitioner may seek a waiver of any FCC rule for "good cause" shown. See, generally, WAIT Radio v. FCC, 418 F. 2d 1153 (D.C. Cir. 1969).

the Ministry and also the one million Catholics in the Miami-Fort Lauderdale television DMA.

See *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 10-553, \_\_ U.S. \_\_, January 11, 2012 (Supreme Court strikes down federal agency's attempt to impose rules on religious organization in violation of the First Amendment). The FCC cannot impose rules that unlawfully interfere with the religious dictates and practices of the Catholic Church, such as how to visually present its Sunday Mass, which is broadcast each week on WLTV-TV in South Florida. Id.<sup>3</sup>

### I. The Sunday Mass is Entitled to a *Categorical Exemption*

The Sunday Mass is entitled to an (automatic) *categorical* exemption from the FCC's closed captioning rules because it is a weekly, locally produced and distributed non-news program of local religious and social interest, which has no "repeat value." See 47 CFR § 79.1(d)(8) (one of many *specific* bases for the FCC's grant of a *categorical* exemption).

The Sunday Mass is a co-production of both the Ministry *and local Miami station WLTV-TV*,<sup>4</sup> it is videotaped less than 36 hours in advance in Miami<sup>5</sup> and it is broadcast on WLTV-TV every Sunday morning.<sup>6</sup> See Appendix A. Moreover, because it is a strict requirement of the Catholic Church's core liturgical guidelines that each Sunday Mass be topical -- both as to the "topicality" of the sermon as well as to the related scripture readings-- the Sunday Mass is not repeated and, indeed, has no "repeat value." Id. Finally, it is indisputable that the Sunday Mass is of "local interest" only. Not only is the Sunday Mass available to more than 1,000,000 Catholics in the Miami DMA, it is the *only* local Catholic Mass broadcast on TV, in Spanish, every Sunday in the growing Miami-Fort Lauderdale DMA. Id. It is difficult to imagine any

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<sup>3</sup> As the Chief Justice wrote, the government cannot interfere in the internal judgments of religious groups. Id.

<sup>4</sup> WLTV-TV donates the 30-minute airtime each Sunday, assists Petitioner with air checks and other technical matters each week; in addition, WLTV-TV's Public Service Director Angela Ramos coordinates directly with the Ministry's parttime assistant and performs essential liaison duties on numerous matters each week. See Appendix A.

<sup>5</sup> "Live" broadcasts are infinitely more costly than taped broadcasts. Id.

<sup>6</sup> This co-produced broadcast is subject to preemption by WLTV-TV, pursuant to its internal broadcast policies and FCC rules. Id.

television program in America that better qualifies for an "automatic" *categorical* exemption, pursuant to the FCC's rules. *Id.*<sup>7</sup>

## II. The Sunday Mass also is Entitled to an *Individual* Exemption

Assuming arguendo that the FCC were to take the position that the Sunday Mass is not entitled to a *categorical* exemption under Section 79.1(d)(8) of its rules, the Sunday Mass alternatively qualifies for an *individual* exemption, pursuant to Section 79.1(f)(1) of the FCC's rules, because the FCC's unlawful imposition of such a requirement on the Sunday Mass would constitute, *inter alia*, an "undue burden" as to the Sunday Mass.

Congress was unusually cautious some 20 years ago, when it adopted legislation authorizing the FCC to impose a "closed captioning requirement" on TV broadcasters. Congress not only carved out numerous automatic, self-executing exemptions for broadcasters<sup>8</sup> but it even provided one *additional* exemption for broadcasters – to prevent any "undue burden" on any entity that produces TV programming.<sup>9</sup> The intent of Congress was to preclude the FCC from burdening a TV station with a closed-captioning requirement that might, effectively, result in a *reduction* in "local" programming -- a historical underpinning of the statutory "public interest" standard, upon which all federal regulation of the TV industry is premised.<sup>10</sup> It is, thus, uniquely instructive that Congress expressly provided yet another explicit exemption for broadcasters -- in subsection 79.1(f)(1) -- beyond the many *categorical* exemptions available under subsection 79.1(d)(8).<sup>11</sup>

This broad array of Congressionally mandated exemptions for broadcasters, therefore, was intended to *preclude* any inappropriately broad regulatory reach of the FCC's closed-captioning

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<sup>7</sup> Moreover, congressional statutes, the FCC's 1997 Report and Order and the FCC's 1998 Reconsideration Decision collectively support a broad interpretation of subsection (d)(8) of the FCC's closed-captioning rules and also that the FCC's decisions do not impinge on the First Amendment rights of religious broadcasters. See infra, note 11 & 9-10.

<sup>8</sup> See 47 CFR § 79.1(d)(8).

<sup>9</sup> See 47 CFR § 79.1(f).

<sup>10</sup> See note 26, infra.

<sup>11</sup> As noted supra, these multiple explicit statutory exemption provisions are in addition to the FCC's established procedures that enable a party to seek a "waiver" of any FCC rule for "good cause shown." See note 2, supra.

regimen. Not only has the FCC recognized the Congressional mandate to avoid any *burdensome* harm to program producers<sup>12</sup> but, recently, Commissioner Mc Dowell added his express concern that the FCC pay close attention in closed-captioning cases to avoid such harm.<sup>13</sup>

It is imperative that the FCC and the Courts fairly construe the legislatively created "undue burden" exemption and, specifically, avoid any overly restrictive construction.<sup>14</sup> In such rare circumstances, reasoned FCC decision-making requires nothing less.<sup>15</sup> In the currently dire economic circumstances of the Sunday Mass, a proper construction of Section 79.1(f)(1) of the FCC's rules requires the FCC's grant of an *individual* exemption.

The Sunday Mass on WLTV-TV meets each of the FCC's "undue burden" evidentiary criteria. In the FCC's October 25, 2011 "Letter" to Petitioner,<sup>16</sup> to which a copy of the FCC's October 20, 2011 Order was attached,<sup>17</sup> the FCC stated that, in any subsequent petition for exemption under the "undue burden" standard, a petition "must include up-to-date evidence, supported by Affidavit, demonstrating that it would be ***economically burdensome to provide closed captioning on the specific programming for which an exemption is sought***" (emphasis added). That Letter, noting that the Order itself provides the "detailed requirements" for any new petition for exemption, stated that "detailed documentation" should be provided to the FCC to support any contention by a petitioner that the imposition of a closed-captioning requirement would result ***"in a significant difficulty or expense,"*** as defined by four (4) criteria:

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<sup>12</sup> See, e.g., Closed Captioning Report and Order, 13 FCC Rcd 3272, 3364-5 ¶ 202 (1997).

<sup>13</sup> "I recognize the importance of our action...for the disabled community. Such rules, however, have to be *carefully crafted to weigh these benefits against the costs they may place on programming owners and distributors.*" Report and Order (Internet Closed Captioning), FCC 12-9, released January 13, 2012, (Concurring Statement of Commissioner Robert M. McDowell), at 111 (emphasis added).

<sup>14</sup> Id. Mindful that a petitioner always can seek a "waiver" of any FCC rule that is not also a statutory mandate, Congress rarely enacts a statute that ***includes*** several express procedures for exemptions, as part of the rules.

<sup>15</sup> See, e.g., Public Media Center v. FCC, 587 F.2d 1322, 1331 (D.C. Cir. 1978)(FCC must clearly and fully articulate its basis for a decision and engage in reasoned decision-making).

<sup>16</sup> The Letter was addressed to the "Television Center of the Archdiocese of Miami," which no longer exists.

<sup>17</sup> The Order, FCC 11-159, released October 20, 2011 ("Order"), reversed the Bureau's 2006 Decision, which had granted an exemption to the ADM's Television Center for the Sunday Mass (in English) on WPXM-TV. Id. at ¶16.



### 1. *Type and Recent History of Operations of the Ministry's Sunday Mass*

The Sunday Mass (in Spanish) was taped at WLTV-TV's studios until 2006, when financial conditions at WLTV-TV required it to be moved to the ADM's independent Television Center; but, when financial conditions forced the Ministry to shutdown the Television Center in 2008, the operations of the Sunday Mass on WLTV-TV changed dramatically. See Appendix A.<sup>18</sup> Three full-time employees were laid off in 2008 and, currently, the Sunday Mass on WLTV-TV is taped off-site with a crew only one-half the size that co-produced the Sunday Mass on WLTV-TV previously. Id. Indeed, the Priests who deliver the Sunday Mass now are unpaid and some drive 60 miles roundtrip each week to the taping. Id.

Operationally and administratively, the Sunday Mass changed after the shutdown of the independent Television Center in 2008. Today, the Sunday Mass is co-produced with WLTV-TV by the Ministry, an independently operated and separately budgeted organization, which is broadly responsible for *all* of the ADM's myriad of public service outreach programs. Id. Since April 2008, the Sunday Mass has been operationally forced to compete for funds with other vital public outreach programs of the Ministry. Id.<sup>19</sup> Now, only *one* Ministry employee works part-time to coordinate production each week with WLTV-TV, to confirm the Priests who deliver each Mass, to confirm the Cantor, technicians, and the delivery of tapes and, then, also to work with WLTV-TV personnel on the taping each week of the broadcast. Id.

Moreover, there is another, *unique* aspect of the Sunday Mass that **operationally** distinguishes it -- with respect to the FCC's closed-captioning rules -- from all other TV programs. The very concept of "closed-captioning" of the Sunday Mass on WLTV-TV -- or *any* Sunday Mass anywhere in the Catholic world -- presents a threshold **operational problem**. See

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<sup>18</sup> See discussion, *infra* at pages 6-7.

<sup>19</sup> See Appendix A at Exhibit 1 (list of numerous other public interest programs of the Ministry).

Appendix A. The very nature of the Sunday Mass must be understood in its proper context, as a fundamental and indispensable component of Catholic teachings and historic Catholic traditions. *Id.* (See also discussion, *infra*, at 9-10.) In such circumstances, the FCC mandating a closed-captioning requirement would present an irreconcilable "significant difficulty" <sup>20</sup> for the continued broadcast of the Sunday Mass. (See also Discussion, *supra*, at 9-10.)

## ***2. Significant COST of Closed Captioning the Sunday Mass***

It can be easily documented that the FCC's imposition of a closed-captioning obligation with respect to the Sunday Mass on WLTV-TV would be "a significant expense" and "economically burdensome." After recently researching (again) the **costs** that would be required to provide closed-captioning for the Sunday Mass, Petitioner determined that the costs would be substantially higher than even the *burdensome costs* discussed in the Television Center's 2005 Petition for Exemption, which concerned the *English* broadcast of the Sunday Mass on WPXN-TV. *Id.* First, the cost of closed-captioning in Spanish is higher than in English. *Id.* Moreover, the 2011 annual costs for the co-production of the Sunday Mass averaged approximately \$42,000. *Id.* From quotes recently received, the Ministry now estimates that the cost of closed-captioning (in Spanish) of the Sunday Mass on WLTV-TV would total a *minimum* of \$20,000 *more* per year – almost a 50% increase. *Id.* Given the dire economic realities *already* facing the Sunday Mass, it is obvious why the *additional* cost of "closed-captioning" could not be absorbed by the Ministry or by WLTV-TV. *Id.*<sup>21</sup>

## ***3. Financial Resources of the Sunday Mass Preclude Closed Captioning***

If closed-captioning of the Sunday Mass is mandated, the financial resources available to the Ministry simply would be inadequate to sustain broadcast of the Sunday Mass. *Id.*

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<sup>20</sup> See Letter, *supra*, at 1.

<sup>21</sup> WLTV-TV recently denied, in writing, a request for funds for closed-captioning of the Sunday Mass. *Id.*

The fundamental economics of the Sunday Mass deteriorated after the onset of the 2007 Recession. Id. By April of 2008, the financial condition of the Sunday Mass -- even without the FCC having mandated closed-captioning -- had deteriorated to the point that the Television Center had to be shutdown, employees were let go, budgets cut, and the pay for technicians now has been frozen since 2007. See Appendix A. Moreover, with the onset of the Recession in 2007, there also has been a steady, precipitous decline in public donations received by the Ministry to support the Sunday Mass. Id.

Thus, as with the 2008 shutdown of the Television Center, the current financial condition of the Sunday Mass is so precarious that the FCC's imposition of a closed-captioning obligation--almost a 50% increase in costs--would constitute the additional financial burden that the revered local religious outreach of the Catholic Church simply could not withstand. Id.

#### ***4. FATAL Impact on the Future Broadcast of the Sunday Mass***

In short, the financial situation facing the Sunday Mass today has deteriorated beyond even the dire situation described in the 2005 Petition of the Television Center.<sup>22</sup> The financial situation of Sunday Mass at present **simply and unquestionably could not survive if the FCC were to impose a closed-captioning requirement on the Sunday Mass.** See Appendix A.<sup>23</sup>

Such an FCC action would be more than an "undue burden"-- **it would force the termination of the very programming that is the subject of this Petition.** Id. In such circumstances, there cannot be any serious debate that a "**burden**" imposed by the FCC that would result in the **total shutdown** of this *unique* local, Spanish-language religious program must *ipso facto* be judged legally to be, *inter alia*, "**undue.**"

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<sup>22</sup> See Petition for Exemption and/or Waiver, filed December 29, 2005 at 2-5, and Appendix A ("Without an exemption, the Sunday Mass most certainly will have to be cancelled.")

<sup>23</sup> Just as there were insufficient available funds -- from any source -- to prevent the shutdown of the Television Center in 2008, such funds are today also not available to prevent the cancellation of the Sunday Mass, should the FCC impose a closed-captioning burden on the Sunday Mass. Id.

### 5. *Other Factors in Support of an Individual Exemption*

Other factors support Petitioner's request for an *individual* exemption for the Sunday Mass. There are no reasonable alternatives. Petitioner has fully considered other alternatives to closed-captioning of the Sunday Mass but none are viable. For example, utilizing "graphic display" of the content of the Sunday Mass is not practical and, as noted by FCC Commissioner Mc Dowell, may be "unworkable."<sup>24</sup> Moreover, it is also not appropriate. See Appendix A. First, it would significantly increase costs because it would require purchase of an additional camera and hiring of additional staff, for which there are manifestly insufficient funds. Id. Even more importantly, however, providing "signed" coverage of the Sunday Mass would be "unworkable" because it would require a distracting "wide shot" that would unacceptably degrade the solemn Mass, contrary to the religious dictates of the Catholic Church. Id.<sup>25</sup>

### 6. A Weighing of All *Public Interest Factors* Mandates an *Individual Exemption*

The FCC may not lawfully apply its closed-captioning rules, in any given adjudicatory case, in a vacuum. Beyond the enumerated specific factors listed in Section 79.1(f) (2) and (3), the FCC must determine *in EVERY adjudicatory proceeding* wherein lies the overall public interest, so that the ends of justice are met. See 47 USC § 154(j).

The FCC's imposition of a closed-captioning obligation in this case -- where it would lead to the shutdown of the very program at issue -- would be not merely contrary to Congressional intent that the FCC avoid imposition of any "undue burden," but such FCC

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<sup>24</sup> See Report and Order, supra (Commissioner McDowell is "concerned" that captioning and "display standards" may be "unworkable").

<sup>25</sup> "Signed" coverage of the Sunday Mass would degrade the solemnity of this sacred religious observance. Id. For example, part of this sacred liturgy is the Priest speaking while placing his hands on the altar, then raising them to the altar. Id. This most sacred moment of the Sunday Mass would be violated by the distraction of a second camera (for the signing). The guidelines of the U.S. Conference of Catholic Bishops prohibit such desecration. Id.



action would also violate *other* FCC's rules and policies, designed to promote "localism" and, specifically, locally produced programming.<sup>26</sup>

### III The Sunday Mass is Entitled to a Waiver of the Closed-Captioning Rules

Even assuming *arguendo* that the FCC were to take the position that the Sunday Mass does not qualify under Section 79.1 for an exemption, nevertheless, the Sunday Mass should be granted a waiver of the FCC's closed-captioning rules for "good cause" shown. The legislative purposes underlying the "public interest" standard favor a grant of a waiver in these circumstances.<sup>27</sup>

### IV. The Imposition of Closed -Captioning on the Sunday Mass would be Unconstitutional

Even assuming *arguendo* that the FCC were to conclude that the Sunday Mass should not receive an *exemption* under Section 79.1 of its rules or a *waiver* from those rules, the FCC's imposition of a closed-captioning requirement on the Sunday Mass would be unconstitutional.

Included in the regulatory calculus of every federal agency are the overarching requirements of the First Amendment to the U.S. Constitution. An FCC mandate that the Sunday Mass be closed-captioned -- despite the FCC's acknowledgment that such federal action effectively would result in the **shutdown** of the Sunday Mass -- unlawfully would infringe upon the freedom of both the Church, through its Ministry, and its congregants, to exercise their constitutionally protected religious freedom. See Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC, (*supra*); see also Report and Order, *supra*, (Comm. McDowell expresses "fear" that new closed-captioning rules could "infringe" upon First Amendment rights of content creators).

Effectively mandating the shutdown of the Sunday Mass would abruptly and directly interfere unlawfully with the religious rights of more than one million Catholics in the Miami

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<sup>26</sup> See Report on Broadcast Localism, FCC 07-218, rel. January 24, 2008; see also FCC v. Allentown Broadcasting Corp., 349 U.S. 358, 362 (Supreme Court confirms service to meet local needs as bedrock goal of FCC regulation).

<sup>27</sup> See note 2, *supra*.

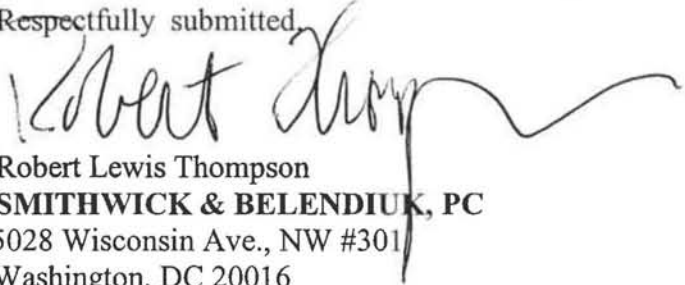
DMA. See Appendix A. Even more devastatingly, however, any FCC action that effectively causes the shutdown of the Sunday Mass would immediately cancel the religious rights of tens of thousands of Spanish-speaking, homebound, elderly, and disabled Catholics in the vast and diverse Miami-Ft. Lauderdale DMA -- who physically are unable to attend any weekly Catholic service -- from receiving the spiritual "connection" that is essential to meet their most basic religious needs. Id. The Sunday Mass plays a unique role in every Catholic's communion with the Church. Id. The Sunday Mass is essential in the life of every Catholic. Id. Accordingly, for the one million Catholics in South Florida, having access to the Sunday Mass on WLTV-TV is a "lifeline" for the weekly exercise of their religious faith and tenets; but for the homebound, the disabled, the incarcerated or those hospitalized, the Sunday Mass is their *only connection* with the Church and the rituals that have defined Catholicism for millennia. Id.

In these circumstances, the denial of an exemption for the Sunday Mass would not only be unreasonably contrary to the FCC's rules and policies, it would be facially unconstitutional.<sup>28</sup>

### **CONCLUSION**

In view of the foregoing, the Commission should grant a permanent exemption (or waiver) or otherwise decline to mandate closed-captioning for the Sunday Mass on WLTV-TV.

Respectfully submitted,



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January 18, 2012

Counsel for the Sunday Mass

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<sup>28</sup> Cf. Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC, *supra*.



**Affidavit of Mary Ross Agosta**

My name is Mary Ross Agosta, I am a resident of Miami Shores, FL and I have been director of the Ministry of Communications of the ADM ("Ministry") since 1988. This Affidavit is given in support of the Ministry's Petition, which seeks an exemption, from the FCC's closed-captioning rules, for the Ministry's "Sunday Mass" on WLTV-TV.

1. The Ministry is an independently operated and separately budgeted outreach organization within the Miami-Ft. Lauderdale television DMA. The Ministry is broadly responsible for all of the ADM's myriad of public service "outreach" programs, which now includes the weekly Sunday Mass on WLTV-TV. See Exhibit 1 to this Affidavit (list of the many other "outreach" programs).
2. The Sunday Mass, a co-production of the Ministry and WLTV-TV, is videotaped less than 36 hours in advance and then broadcast every Sunday morning on WLTV-TV. Live broadcast of the Sunday Mass on WLTV-TV would be infinitely more expensive (and never has been done). The Sunday Mass was co-produced at WLTV-TV's Univision's TV Studio for over 15 years but, when Univision concluded in 2006 that it could no longer afford to loan out its expensive space and its staff to the Ministry, the Sunday Mass was relocated to the ADM's Television Center. When that was forced to shutdown in 2008, the weekly taping of the Sunday Mass was moved off-site and a minimal outside staff was hired for the weekly production of the Sunday Mass.
3. Because it is a strict requirement of the Catholic Church's core liturgical guidelines that each Sunday Mass be "topical" (as to the topicality of the Priest's sermon and also the related scripture readings), the Sunday Mass is never repeated on WLTV-TV or elsewhere.
4. The Sunday Mass broadcast is available to more than one million Catholics who live in Dade, Broward and Monroe counties, the service area of WLTV-TV. It is the only local Catholic Mass broadcast on TV, in Spanish, every Sunday in the populous and growing Miami-Ft. Lauderdale television DMA.
5. WLTV-TV donates the 30-minute airtime each week, assists the Ministry in air-checks and performs other technical functions related to the broadcast itself at WLTV-TV each Sunday. WLTV-TV's Public Service Director Angela Ramos coordinates directly with the Ministry's parttime assistant and also performs essential liaison duties on numerous matters each week.
6. I sponsored a sworn statement in 2005, in connection with the Petition filed by the Television Center of the ADM for the economically suffering Sunday Mass, which was then broadcast in English on Miami-DMA television station WPXM-TV. After an exemption was granted for that Sunday Mass in 2006, the financial condition of the Sunday Mass (in Spanish on WLTV-TV) deteriorated even further, forcing the shutdown of the Television Center itself and drastically altering the co-production of the weekly Sunday Mass. Three full time employees (including a man who had been employed for 19 years) were let go; and the technicians, the Cantor and others face frozen budgets since 2007. The Sunday Mass is now co-produced by the Ministry each week with less than half the

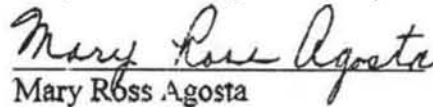
Staff that produced the Sunday Mass on WPXM-TV in 2005. The Priests who deliver the Sunday Mass are now unpaid and some drive 60 miles roundtrip each week to do the taping. Currently, only one employee of the Ministry is detailed to coordinate with WLTV-TV, to confirm the Priest delivering the Mass each week, to book the Cantor and technicians, to schedule and monitor the delivery each week of the videotapes and to make all final preparations for the weekly broadcast. That employee performs these functions for the Sunday Mass on only a part-time basis.

7. The very idea of closed-captioning (or even “signing”) of the Sunday Mass presents a huge, threshold problem for the Church. The very nature of the Sunday Mass must be understood as a fundamental and indispensable component of Catholic tradition. If the FCC were to mandate the closed-captioning of the Sunday Mass, the Church would be presented with an irreconcilable difficulty, one that would preclude the Ministry’s ability to continue broadcast of the Sunday Mass. At its essence, the visual presentation of the Sunday Mass cannot be altered or distorted. Both closed-captioning or “signing” the sacred Sunday Mass are distortions that would be strictly prohibited by the 2011 guidelines of the United States Catholic Conference of Bishops (“USCCB”) (which are confidential but can be made available to the FCC upon request).
8. The Ministry again researched the likely costs of closed-captioning the Sunday Mass on WLTV-TV [with EICB ([flatratecc@eicbtv.com](mailto:flatratecc@eicbtv.com)) and Ham Media Group (Miami)]. First, we found that the cost of closed-captioning in Spanish is higher than in English. We have determined that the total cost of closed-captioning the Sunday Mass in Spanish on WLTV-TV would be from \$20,000-\$35,000 per year, which would be, at a minimum, about 50% of the current total cost of the Sunday Mass on WLTV-TV, which is approximately \$42,000 per year. Such a massive increase in costs would have an immediate result – we would be forced to cancel the Sunday Mass. We have consulted with WLTV-TV, hoping that Univision, WLTV-TV's owner, might cover this expense but WLTV-TV notified us during the past week, that WLTV-TV (which currently donates time, production assistance and other resources to the Sunday Mass) could not fund any of the cost of closed-captioning. In sum, if the FCC mandates the closed-captioning of the Sunday Mass, it will force the Ministry to shutdown the Sunday Mass, just as dire economic conditions in 2008 forced the shutdown of the Television Center.
9. There are no other available resources to fund the closed-captioning of the Sunday Mass -- from the ADM or from external sources. As I have already discussed, costs have been reduced to the breaking point since 2007, at the onset of the Recession. Since that time, donations for the Sunday Mass have plummeted. The average donation in the last year has been \$20, for a total of approximately \$1100 in 2011. The Ministry has even attempted to increase donations through broadcast solicitations on WACC (AM), the ADM’s radio service in the Miami market, which itself has suffered staggering losses in recent years. There should be no doubt in the FCC’s mind – if closed-captioning is mandated for the Sunday Mass, it will force the Ministry to cancel the Sunday Mass on WLTV-TV. The additional economic burden that would be faced by the Ministry would force the immediate shutdown of the Sunday Mass. There are no other options.



10. There are also no alternatives to closed-captioning that the Sunday Mass might employ, in order to avoid the FCC's mandate. As discussed previously, "signing" cannot be used, as it would not only increase costs unsustainably (by requiring a second camera at taping and the hiring of additional technicians) or, alternatively, would inappropriately require a distracting "wide shot" of the Priest that would unacceptably degrade the solemn Sunday Mass, contrary to the guidelines of the USCCB. Id. Indeed, either a wide shot or a second camera would degrade that part of the sacred liturgy of the Sunday Mass where the Priest is speaking while also placing his hands on the altar, then raising his hands toward Heaven. Simply put, closed-captioning of the Sunday Mass would be inconsistent with the Church's stated requirements for that sacred tradition and tenor of Catholicism.
11. Finally, the effectively "forced cancellation" of the Sunday Mass by the federal government's mandate of closed-captioning, would infringe upon the freedom of the Catholic Church and its faithful to fully exercise their religion. Being forced by the FCC to cancel the Sunday Mass would directly interfere with religious rights and, specifically, the opportunities to worship via the televised Sunday Mass, for more than one million Catholics in the Miami DMA. More devastatingly, however, the forced cancellation of the Sunday Mass on WLTV-TV would deprive tens of thousands of Catholics who are homebound, and those who are disabled, and those who otherwise are unable to attend a Sunday Mass in person (even the incarcerated and those hospitalized) from having a connection with their Church and the ability to participate in the unique rituals provided by the Sunday Mass for millennia.

Submitted under penalty of perjury this 18th day of January, 2012.

  
Mary Ross Agosta

**Archdiocese of Miami Ministries**

**Abortion Counseling (Project Rachel)**

**Adult Day Care**

**Adult Faith Formation**

**Amor in Accion**

**Annulments**

**Apostleship of the Sea**

**Apostolic Movements**

**Archdiocesan Council of Catholic Women**

**Archdiocesan High Schools**

**Art and Architecture**

**Assisted Living Residences**

**Association of Faith Formation**

**Bereaved Ministry**

**Black Catholics**

**Brazilian Apostolate**

**Building and Construction**

**Caballeros Catolicos**

**Camino de Matrimonio**

**Campaign for Human Development**

**Campus Ministry**

**Caridad**

**Caritas**

**Carroll Manor**

**Casa Cana**

**Casa Emaus**

**Casa Manresa**

**Casa San Lorenzo**

**Catholic Cemeteries**

**Catholic Charities**

**Catholic Charities Legal Services**

**Catholic Educator's Guild**

**Catholic Health Services**

**Catholic Hospice**

**Catholic Housing Management**

**Catholic Newspapers**

**Child Care and Development**

**Centro Mater Child Care Center**

**Children, Unaccompanied Minors**

**Chinese Apostolate**

**Christian Formation**

**Clergy**

**Courage**

**Crisis Pregnancy Center**

**Cursillo Movement**

**Day Care Centers – Children**

**Day Care Programs – Elderly**

**Deacons**

**Deaf and Disabled**

**Department of Schools**

**Detention Ministry – Prison**

**Divorce Recovery**

**Drug Treatment**

**Education, Religious**

**Educations, Secondary**

**Elementary Schools**

**Emaus**

**Ermita de la Caridade – National Shrine**

**Family Movements**

**Family Life**

**Filipino Apostolate**

**Gesu Meal Center**

**Good Shepherd Child Care Center**

**Haitian Mission**

**Health Services**

**Hispanic Family**

**Home health Services**

**Homeless Housing and Shelters**

**Indian Apostolate**

**Individual Counseling**

**Italian Apostolate**

**Jamaican Apostolate**

**Korean Apostolate**

**Lay Ministry**



**Liturgy and Music**

**Marian Center for Handicapped and Mentally Disabled Children**

**Marian Towers**

**Marriage Preparation Ministry**

**Metropolitan Tribunal**

**Migrants Service**

**Ministry of Cultural Groups**

**Ministry to Engaged Couples**

**Morning Star Retreat Center**

**Natural Family Planning**

**New Life Family Shelter**

**Nigerian Apostolate**

**Notre Dame Child Care Center**

**Notre Dame d'Haiti Mission**

**Nursing and Rehabilitation Services**

**Office of Religious**

**Our Lady of Charity Shrine**

**Palmer House**

**Pastoral Center**

**Pax Catholic Communications**

**Paxnet**

**Permanent Deacons**

**Schott Memorial Center for the Deaf and Disabled**

**Scouting**

**Seminaries**

Serra Clubs

Southeast Pastoral Institute

Spanish Movements

Special Education

Spiritual Life

St. Luke's Substance Abuse

Vocations

Young Adult